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Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Lucia Moritz, High School Network and Linked Learning Office Superintendent
Emiliano Sanchez, Director of Trades and Apprenticeship/Linked Learning Office

Board Meeting Date May 13, 2020

Subject 2020 Summer Internship Agreement - San Francisco Bay Area Rapid Transit District (BART) - High School Linked Learning Department

Action Requested and Recommendation

Approval by the Board of Education of an Agreement between the District and the San Francisco Bay Area Rapid Transit District (BART), Oakland, CA, for the latter to provide a five-week paid summer internship program for up to sixteen (16) high school students; they will be introduced to BART Rolling Stock and Shop (RS&S) Engineering staff and will spend a portion of their time shadowing Transit Vehicle Electronic Technicians and Transit Vehicle Mechanics engaged in component repair work; students will receive training in tool identification; basic job skills such as email etiquette, memo writing and presentation skills; work activities will be completed under the supervision of RS&S Fore-workers for the High School Linked Learning Office, for the tentative period June 8, 2020 through July 10, 2020, but given the present health crisis may be extended through September 10, 2020, at no cost to the District.

(Program will not extend into the new academic year and will not impact instruction.)

Background

A one paragraph explanation of why the consultant's services are needed.

Bay Area Rapid Transit District (BART) is offering a five-week paid internship program for up to sixteen (16) high school students from Fremont, Skyline, Oakland, Castlemont, and McClymonds High Schools. They will be introduced to BART Rolling Stock and Shop Engineering staff and will spend a portion of their time shadowing Transit Vehicle Electronic Technicians and Transit Vehicle Mechanics engaged in component repair work.

Competitive Bid

Was this contract put out for Competitive Bid? No
BART will cover all the expenses of this program. BART is the only major transportation agency in the Bay Area.

Fiscal Impact

BART will cover all expenses for this summer internship opportunity for OUSD students in the amount of \$17,120.00. The OUSD staff member who will supervise the program is a 12 month employee and will be part of his/her summer responsibilities. There is no fiscal impact to OUSD.

Attachments

- OUSD-BART 2020 Internship Agreement

**MEMORANDUM OF AGREEMENT BETWEEN THE SAN FRANCISCO BAY AREA
DISTRICT (BART) AND OAKLAND UNIFIED SCHOOL DISTRICT (OUSD)**

I. PARTIES

The purpose of this Memorandum of Agreement ("MOA" or "Agreement") is to establish a contractual relationship between Oakland Unified School District ("OUSD") and the San Francisco Bay Area Rapid Transit District ("BART") ("CONTRACTOR").

WHEREAS, the CONTRACTOR's services or program described in this MOA will be provided at no cost to OUSD students and parents.

BOTH PARTIES HEREBY enter into this MOA to enable CONTRACTOR to provide an internship program to OUSD high school students from various OUSD Schools.

II. AGREEMENT TERMS

Mutual Agreements:

- A. The Parties understand and agree that the internship is primarily an intern-focused learning experience provided to Students currently enrolled in the OUSD program. BART shall offer meaningful and challenging assignments intended to enhance the learning experience of Students assigned by OUSD to an internship placement offered by BART.
- B. The Parties understand and agree that Students are not employees of BART and shall not be entitled to any form of wages, employment-related compensation or benefits from BART. OUSD agrees to utilize the supplemental funds provided by BART to award a stipend to Students who successfully complete the internship in accordance with this Agreement and also award participating Interns academic credit for successful completion of the internship in accordance with OUSD requirements. OUSD agrees not to seek compensation or reimbursement of expenses from BART for this internship other than what is set forth in this Agreement.
- C. The Parties understand that in the event that a Student does not satisfactorily complete the internship program requirements set forth by BART and OUSD, BART has the discretion to release the Student from the program.
- D. The Parties understand that the payments of BART's funds to OUSD are contingent upon Students' satisfactory completion of the internship program requirements set forth by the Parties. After completion of the program, OUSD will submit an invoice to BART for the supplemental funds to offset the stipend that OUSD pays to Students who successfully complete the program.
- E. In the event that a Student does not successfully complete the internship prior to September 10, 2020, as determined by BART in its sole discretion, the Student shall be awarded a prorated amount of the stipend by OUSD as of the date of termination.

III. BART RESPONSIBILITIES/SCOPE OF SERVICES

- A. BART shall provide supplemental funding to OUSD no later than October 15, 2020 in an amount not to exceed \$17,120 (*i.e.*, \$16,000 for stipends and \$1,120 in administrative expenses) for the payment of stipends to Students.

- B. **(5 week Summer Program)** BART shall provide up to 16 OUSD High School students (at times, "Cohort"), as designated by OUSD, a five (5) week summer Internship program in their Rolling Stock and Shop Department (Monday), tentative dates June 8 through (Friday) July 10, 2020, but given the present health crisis the window can extend through September 10, 2020. The hours shall be from 8:15 PM - 2:00 PM, Monday through Friday. All holidays will be observed. The students' summer curriculum will include several aspects within the RSS Department.
- C. BART agrees to provide said services to both young men and women OUSD students as designated by OUSD, and agrees that at least 20% (and ideally, 50%) of the Cohort will be female OUSD students.
- D. BART understands and agrees to inform Students of its pertinent policies, procedures, processes and expectations for a successful learning experience. BART further agrees to afford each Student equal opportunity in all phases of the work-site learning experience without discrimination because of race, color, religious creed, sex, gender, gender identity, gender expression, national origin, ancestry, age for individuals age forty or older, disability (physical or mental, including AIDS and HIV), medical condition (cancer and genetic characteristics), genetic information, marital or domestic partnership status, sexual orientation, military or veterans status, pregnancy, family or medical leave status, pregnancy, pregnancy disability leave status, or any other status protected by state and federal laws.
- E. BART designates **Marlon Lewis, Maintenance Shop Superintendent or his designee, as the Site Supervisor** who will serve as the BART contact for OUSD with all matters concerning the internship. This includes ensuring Students' BART Supervisors complete and submit student timesheets, complete and submit any Student performance assessments required by OUSD, and complete and submit recommendation letters for their Student(s) prior to the end of the internship.
- F. The relevant experience of the CONTRACTOR personnel that will be providing the services: BART has been running vehicles for revenue since 1972, hence the RSS Department has been supporting the agency for over 47 Years.

IV. OUSD RESPONSIBILITIES

- A. OUSD shall utilize the supplemental funds from BART to award a stipend to each Student in an amount not to exceed \$1,000 per Student who successfully completes the internship.
- B. OUSD shall be solely responsible for administering the payment of stipends to Students, including but not limited to any state and federal tax withholding requirements, and for addressing and resolving any disputes raised by Students regarding the processing of payment of such stipends.
- C. All students participating in the internship program shall be at least sixteen (16) years old as of the first day of placement at BART. OUSD shall be solely responsible for ensuring that students participating in the internship program meet this minimum age requirement.
- D. Selected Students are required to attend a BART Orientation scheduled on June 8, 2020. **Emiliano Sanchez, OUSD Coordinator of CTE Trades and Apprenticeships** or his designee will provide information and relevant materials to BART Students' Supervisors during said BART Orientation.

IV. CONTRACTOR RESPONSIBILITIES

- A. CONTRACTOR personnel, including subcontractors, will comply with the following CONTRACTOR policies:
1. **Drug and Smoke Free**—CONTRACTORS, or subcontractors are not to use drugs during the program hours or when students are present.
 2. **Anti-Discrimination**—There shall be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age. Therefore, the CONTRACTOR agrees to comply with applicable Federal and California laws.
 3. **Conflict of Interest**—CONTRACTOR shall abide by and be subject to all applicable regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any OUSD employees to perform the services in this MOA, and affirms that to the best of its knowledge no such conflict presently exists. CONTRACTOR agrees to alert OUSD in writing if and when a potential conflict does arise.
 4. **Family Education Rights and Privacy Act**—CONTRACTOR shall observe District policies and regulations, and state and federal laws, including the Family Education Rights and Privacy Act of 1974, commonly known as FERPA, related to the confidentiality of pupil and personnel records.
- B. **Communication**—Communicate with OUSD staff, both formally and informally, to ensure, to the best of the program’s ability, that the CONTRACTOR’S services are aligned with OUSD’s mission and objectives and are adequately meeting student’s needs. At the request of OUSD staff, provide reasonable data and information to students participating in the CONTRACTOR’s program. The points of contact for the parties are as follows:

Marlon Lewis, Maintenance Shop Superintendent	Name
150 Sandoval Way, Hayward, CA 94544	Address
(510) 476-8403	Phone Number
mlewis1@bart.gov	E-mail

Please identify a contact person for the School site:

Emiliano Sanchez , Coordinator of Career Technical Trades and Apprenticeship	Name
1000 Broadway, Suite 440, Oakland CA 94607	Address
(510) 879-2594; Cell (510) 384-5249	Phone Number
Emiliano.sanchez@ousd.org	E-mail

- C. **Confidentiality**—CONTRACTOR shall maintain strict confidentiality of all information about individual students received under this MOA and will not disseminate such information without the express written consent of OUSD. CONTRACTOR will comply with FERPA, and will be allowed to use the data received to solicit funding to continue to expand its services/program, so long as there is no information from which the identity of any student in the CONTRACTOR's program as a participant could be made.

VI. DURATION

The term of this MOA is from June 8, 2020 through September 10, 2020

VII. TERMINATION/AMENDMENT

- A. Either party may terminate this MOA at any time, without cause, with thirty (30) days written notice to the other party so long as said termination notice is given on or before May 8, 2020. In the event of termination, OUSD shall refund to BART any unused stipend funds within thirty (30) days.
- B. This MOA may be amended by mutual consent of the parties. All amendments must be in writing and signed by both parties.

VIII. HOLD HARMLESS/INDEMNITY

OUSD expressly agrees to defend, indemnify, and hold harmless BART, its directors, officers, board members, agents and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from OUSD's, its officers, directors, agents (including Students') or employees' negligent acts or willful misconduct, in the operation and/or performance under this Agreement. This provision survives termination of this Agreement.

BART expressly agrees to defend, indemnify, and hold harmless OUSD, its directors, officers, agents and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from BART's, its directors', officers', board members', agents' or employees' negligent acts or willful misconduct, in the operation and/or performance under this Agreement. This provision survives termination of this Agreement.

IX. ADDITIONAL PROVISIONS

- A. **Status of Contractor:** This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint ventures of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONTRACTOR shall assume full responsibility for payment of all Federal, State, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to CONTRACTOR's employees. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results

obtained.

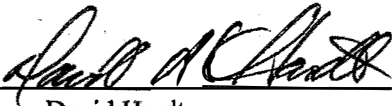
- B. **Licenses and Permits:** CONTRACTOR shall obtain and keep in force all licenses, permits, and certificates necessary for the performance of this MOA.
- C. **Assignment:** The obligations of CONTRACTOR under this MOA shall not be assigned by CONTRACTOR without the express prior written consent of OUSD.
- D. **Waiver:** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.
- E. **No Rights in Third Parties:** This MOA does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
- F. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).
- G. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California. The Alameda County Superior Court shall have jurisdiction over any state court litigation initiated to enforce or interpret this Agreement.
- H. **Integration/Entire Agreement of Parties:** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- I. **Counterparts:** This Agreement and all amendments and supplements to it may be executed in two or more counterparts, each of which shall be deemed an original agreement and all of which shall constitute one and the same agreement. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing party and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. This section constitutes a waiver by each party of the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.
- J. **Signature Authority:** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.
- K. **Contract Contingent on Governing Board Approval:** OUSD shall not be bound by the terms of this Agreement until it has been formally approved by OUSD's Governing Board,

and no payment shall be owed or made to CONTRACTOR absent formal approval. This Agreement shall be deemed to be approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

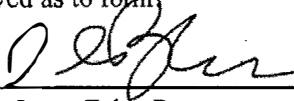
IN WITNESS WHEREOF, the parties to this MOA have duly executed it on the day, month and year set forth below.

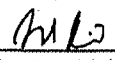
By: _____ Dated: _____ (MM/DD/YYYY)
Jody London
President, Board of Education

By: _____ Dated: _____ (MM/DD/YYYY)
Kyla R. Johnson-Trammell
Superintendent of Instruction Oakland Unified School District
Secretary, Board of Education

By:  _____ Dated: 04/08/2020 (MM/DD/YYYY)
David Hardt
Chief Mechanical Officer
BART Rolling Stock & Shops

Approved as to form:

By:  _____ Dated: April 6, 2020 (MM/DD/YYYY)
Jeana Zelan Peterson
Attorney
BART Office of General Counsel

By:  _____ Dated: Mar 26, 2020 (MM/DD/YYYY)
Joshua R. Daniels, General Counsel
Oakland Unified School District






BART MOA

Final Audit Report

2020-03-26

Created:	2020-03-26
By:	anjanette duckworth (anjanette.duckworth@ousd.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA6Hr-HZGTzz1pvQgGqw8dA28adm2IUHJ

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-  Document created by anjanette duckworth (anjanette.duckworth@ousd.org)
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-  Document e-signed by Joshua R Daniels (josh.daniels@ousd.org)
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-  Signed document emailed to Joshua R Daniels (josh.daniels@ousd.org) and anjanette duckworth (anjanette.duckworth@ousd.org)
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